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OFFICE OF PETITIONS

In re Application of  
John Korbler and Xuegang Geng  
Application No. 10/699,042  
Filed: October 31, 2003  
Attorney Docket No.  
Title: SUBSTRATE PROCESS TANK WITH  
ACOUSTICAL SOURCE TRANSMISSION AND  
METHOD OF PROCESSING SUBSTRATES

DECISION REFUSING STATUS  
UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION TO ACCEPT DECLARATION UNDER  
37 CFR 1.47," filed April 1, 2004.

The petition is DISMISSED.

Rule 47 applicant is given TWO MONTHS from the mailing date of  
this decision to reply, correcting the below-noted deficiencies.  
Any reply should be entitled "Request for Reconsideration of  
Petition Under 37 C.F.R. § 1.47(a)," and should only address the  
deficiencies noted below, except that the reply may include an  
oath or declaration executed by the non-signing inventor.  
Failure to respond will result in abandonment of the application.  
Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on October 31, 2003,  
without an executed oath or declaration and missing the statutory  
basic filing fee. Accordingly, on February 2, 2004, applicants  
were mailed a "Notice to File Missing Parts of Nonprovisional  
Application," requiring submission of an executed oath or  
declaration, payment of the filing fee and payment of the  
surcharge for late filing under § 1.16(e).

In response, rule 47 applicant timely filed the instant petition,  
along with payment of the petition fee, the basic filing fee, and  
the late surcharge. On petition, applicant asserts that status  
under § 1.47(a) is proper because inventor Geng refuses to join  
in the application. In support thereof, applicant submits a  
declaration of facts of patent attorney Brian Belles.

A grantable petition under 37 C.F.R. § 1.47(a) requires; (1)  
proof that the non-signing inventor cannot be reached or found,  
after diligent effort, or refuses to sign the oath or declaration  
after having been presented with the application papers  
(specification, claims and drawings); (2) an acceptable oath or  
declaration in compliance with 35 U.S.C. §§115 and 116; (3) the  
petition fee; and (4) a statement of the last known address of  
the non-signing inventor. The instant petition does not satisfy  
requirement (2).

Application No. 10/699,042

Page 2

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. By declaration of patent attorney Belles, petitioner has shown that the application papers were presented to patent attorney Leo Clossey for inventor Geng. The declaration (and supporting exhibits) supports a conclusion that by his conduct, in not responding, inventor Geng has refused to join in the application. The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Geng.

However, the petition does not include an acceptable declaration. Pursuant to 35 U.S.C. 115 and 37 CFR § 1.63(a)(3), an oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must identify the country of citizenship of each inventor. Although the declaration submitted identifies by name and mailing address and/or residence inventor Geng as a joint inventor, the declaration does not include the citizenship of inventor Geng. (The space where his citizenship would be entered is blank).

The requirement for the citizenship of inventor Geng is statutory and cannot be waived. A new declaration is required.

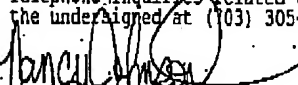
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition  
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By FAX: (703) 872-9306  
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By hand: CUSTOMER SERVICE WINDOW<sup>1</sup>  
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Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

  
Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows: U.S. Patent and Trademark Office, 220 20<sup>th</sup> Street S. Customer Window, Mail Stop \_\_\_\_\_, Crystal Plaza Two, Lobby, Room 1803, Arlington, VA 22202..